

APPEAL NO. 042457
FILED NOVEMBER 22, 2004

This appeal after remand arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) on remand was held on August 24, 2004. In Texas Workers' Compensation Commission Appeal No. 033112, decided January 21, 2004, the Appeals Panel reversed the hearing officer's determination that the compensable injury on _____, does not extend to include bulges at C3-4, C4-5, C6-7; to the thoracic; herniations at L4-5, L5-S1; right wrist; and/or right foot spurring; and that the appellant (claimant) did not have disability as a result of the compensable injury and remanded the case back to the hearing officer for clarification as to whether any testimony was taken on October 22, 2003; whether (TJ) gave oral testimony at the CCH; to reform the issue as the parties agreed to on the record; and correctly list exhibits and witnesses. On remand the parties agreed that no testimony was taken on October 22, 2003 and that TJ did not provide oral testimony. Further, the hearing officer reformed the issue as agreed to by the parties and correctly listed the witnesses and exhibits. The hearing officer then resolved the disputed issues by deciding that the compensable injury of _____, does not extend to include bulges at C3-4, C4-5, C6-7; thoracic strain, herniations at L4-5, L5-S1; right wrist cyst; and/or right foot spurring; that the compensable injury does extend to right wrist contusion; and that the claimant did not have disability as a result of the compensable injury. The claimant appealed, disputing the extent-of-injury and disability determinations. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The parties stipulated that on _____, the claimant sustained compensable right hand and right foot contusions and insect stings to the face. At issue was whether the _____, compensable injury included injury to the cervical spine consisting of bulges at C3-4, C4-5, C6-7; thoracic strain; lumbar herniations at L4-5, L5-S1; right wrist cyst and contusion; and right foot spurring; and whether the claimant had disability. The claimant had the burden of proof on the disputed issues of extent of injury and disability. Conflicting evidence was presented on these issues. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, we conclude that the hearing officer's decision is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **ACE AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBIN MOUNTAIN
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 200
IRVING, TEXAS 75063.**

Margaret L. Turner
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Veronica L. Ruberto
Appeals Judge